

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Sean Carney,

Civ. No. 05-2968 (PAM/AJB)

Petitioner,

v.

ORDER

R.L. Morrison, Warden,

Respondent.

This matter is before the Court on a Petition for Writ of Habeas Corpus, seeking an order requiring Respondent to reconsider whether Petitioner should be transferred to a community confinement center (“CCC”).

In Fults v. Sanders, 442 F.3d 1088 (8th Cir. 2006), the Eighth Circuit Court of Appeals held 28 C.F.R. §§ 570.20 and 570.21 were invalid because they conflict with 18 U.S.C. § 3621(b), which gives broad discretion to the Bureau of Prisons to determine the location of an inmate’s imprisonment. Id. at 1091-92. As Respondent has acknowledged in his Response to the Petition, Fults is dispositive of this case, and the Petition is therefore granted. Accordingly, **IT IS HEREBY ORDERED** that:

1. The Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (Docket No. 1) is **GRANTED**;
2. The Report and Recommendation of Magistrate Judge Arthur J. Boylan (Docket No. 11) is **ADOPTED**; and
3. Respondent is directed to reconsider immediately the date when Petitioner

should be assigned to a CCC in light of the criteria set forth in 18 U.S.C.

§ 3621(b) and without regard to 28 C.F.R. §§ 570.20 and 570.21.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: June 10, 2006

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge